IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.429 OF 2006

Pravin Balkrishndas Dalal ..Applicant
V/s
The State of Maharashtra ..Respondent.

Mr. Jagdish C. Shah, Advocate for the applicant.

Mrs. M.H. Mhatre, APP for the State.

CORAM : J.H. BHATIA, J.

DATE : 14TH FEBRUARY, 2007.

P.C.

. Heard Mr. Jagdish Shah, learned Counsel for the applicant and Mrs. Mhatre, learned A.P.P.for the State. Perused record.

2. The prosecution case, in brief, is that on 10/4/1992 robbery was committed at the office of the applicant by the four armed persons and they had taken away diamonds in 8 packets. At that time, value of the diamonds was assessed at Rs. 6,13,590/-. The said property along with some other stolen property came to be recovered from three persons namely Gopal Shetty, Chandrashekhar Acharya and Yogesh Pujari. After

investigation charge-sheet was filed against them. However, before the trial commenced, accused No.1 Gopal and accused No.3 Yogesh absconded and they could not be arrested for a period of more than 10 years and finally the trial proceeded only against accused No.2 Chandrashekhar and by the Judgment dated 13/4/2006, learned 9th Additional Sessions Judge, Mumbai acquitted that accused. The learned Sessions Judge also directed to retain the seized property, as it would be required at the time of trial of remaining two accused whenever they would be arrested. The applicant, who is the original complainant is aggrieved by the directions to retain the property with the Court for indefinite period. According to him, the property was returned to him by the Additional Chief Metropolitan Magistrate 4th Court, Girgaon in the year 1992 subject to furnishing his bond and to produce the property at the time of trial. Accordingly, when he was called upon to produce the property, he produced the said property in tact in 8 packets before the Sessions court. As two absconding accused persons could not be arrested for long period there is no certainty when they will be arrested. Therefore, no purpose would be served by retaining the property in the Court. He seeks to quash the order

passed by the Additional Sessions Judge only to extent of retaintion of the property in the Court. He is willing to execute necessary bonds.

3. Mrs. Mhatre,learned APP has secured report from Sr. Police Inspector Mr.A.K.Ingale, Investigating Officer, who is present in the Court, to show that the accused persons are not yet arrested and they are being traced by B.P.Road Police Station. Mr. Mhatre has no serious objection to return the property to the applicant on his executing appropriate bond. Taking into consideration all the circumstances, I find that there is no justification to retain the property in the court for indefinite period without prospects of arrest of two absconding accused. Therefore, I direct that property, being diamonds in 8 packets marked Exh." 47" before the trial Court be returned to the applicant on his executing a bond to the tune of Rs. 10 lacs with condition that he shall not dispose off or tamper with the property for three years from this date. However, the bond which may be executed by him shall remain valid even after that.

4. Revision Application stands disposed off.

(J.H. BHATIA, J.)